

October 9, 2015

Hon. George B. Daniels  
United State District Court  
Southern District of New York  
500 Pearl St.  
New York, NY 10007-1312

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Re: Emergency Request for Pre-Motion Conference in *Grubbs v. Safir*, Case No. 92-cv-2132 (GBD)

Dear Judge Daniels:

Plaintiffs respectfully submit this letter pursuant to Local Civil Rule 37.2 to request an emergency pre-motion discovery conference. On October 1, this Court signed an Order to Show Cause setting a hearing date of October 15 to address the placement, by the City of New York and the New York City Department of Correction (together, the “City”), of surveillance cameras in the attorney-client interview booths in the Richmond County Criminal Court in Staten Island. That hearing has now been rescheduled for October 20. Due to the urgent nature of the proceedings, Plaintiffs request an order permitting narrow, expedited discovery in advance of the October 20 hearing. Specifically, Plaintiffs request the following in advance of the hearing:

- (1) all screenshots of camera footage that were taken by the Department of Correction personnel during Legal Aid’s tour of the courthouse.
- (2) policies and procedures relating to the confidentiality of the recordings of the attorney-client conferences and the circumstances under which recordings may be provided by the Department of Correction to any other party;
- (3) documents related to the decision to place cameras in the attorney-client rooms, including security-incident data relied on in connection with such decision; and
- (4) one four-hour deposition of the person most knowledgeable about the decision to install the cameras.

A proposed order is attached hereto as Exhibit A. The document requests and deposition notice are attached as Exhibits B and C, respectively. The document requests and deposition notice will be served on Defendants’ counsel simultaneously with the filing and service of this letter.

Federal Rule of Civil Procedure 34(b)(2)(A) authorizes the Court to shorten the time to respond to discovery requests. In deciding the timing of discovery, courts assess the application under “the flexible standard of reasonableness and good cause...” *Ayyash v. Bank Al-Madina*, 233 F.R.D. 325, 327 (S.D.N.Y. 2005). Here, expedited discovery is necessary and reasonable and good cause has been shown. As set forth more fully in Plaintiffs’ October 1, 2015

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Memorandum of Law in support of the Order to Show Cause, Plaintiffs' constitutional rights are being violated, irreparably, every day that arraignments take place in Staten Island with the City's surveillance cameras monitoring Plaintiffs' consultations with their attorneys. The discovery requested above will permit both parties to present a fuller picture of the situation at the October 15 hearing. It will also allow the Court to make a more informed decision on the provisional relief requested by the Plaintiffs. Therefore, good cause exists for expedited discovery.

Moreover, the requested expedited discovery is entirely reasonable. The photographic and video evidence requested could easily be produced with virtually no burden to the City in one or two days. The documents requested by Plaintiffs relating to the decision to install the cameras could be located and printed in a short time simply by having a small number of custodians search their emails using narrow search terms. Finally, Plaintiffs seek to depose one individual for four hours concerning the reasons for installing the cameras. The burden on the City to comply with expedited discovery would therefore be minimal.

On October 6, 2015, Plaintiffs' counsel, William Gibney, called, and later emailed, counsel for the City to ask whether the City would agree to produce the documents and photographic evidence set forth above prior to the hearing. Counsel for the City, Martin Bowe, responded that the City would not produce such materials on an expedited basis.

For the reasons set forth above, Plaintiffs respectfully request that the Court hold an emergency pre-motion discovery conference, or, in the alternative, grant the request for expedited discovery by entering the proposed order attached hereto as Exhibit A.

Respectfully submitted,



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Attachments